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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/631,502	08/03/2000	Charanpreet S. Bagga	6683.44US01	9162

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EXAMINER

BAXTER, JESSICA R

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 07/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

TJB

Office Action Summary	Application No. 09/631,502	Applicant(s) BAGGA ET AL.	
	Examiner Jessica R Baxter	Art Unit 3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 8 claims dependency upon claim 8, since a claim cannot depend on itself, the claim has been examined as if it depended upon claim 7.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-21 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,937,222 to Banko.

Regarding claim 1, Banko discloses a surgical instrument comprising a shaft (see FIGS. 9A-12A shaft 84), a working head (see FIG. 4A burr 65) comprising a blade having a serpentoid configuration (see FIG. 12B) and a first cutting surface and a second cutting surface (see FIG. 12B edges 100), and a collecting element (see FIG. 4A interior surface of shield 45).

Regarding claim 2, Banko discloses that the first cutting edge faces the opposite direction of the second cutting edge (see FIG. 12B).

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Regarding claim 3, Banko discloses that the leading surface has a distal taper (see FIG. 11A cutter 96).

Regarding claim 4, Banko discloses that the blade has a first diameter dimension greater than a second diameter dimension (see FIG. 12B).

Regarding claim 5, Banko discloses that the collecting element has a peripheral surface that does not extend radially beyond the first and second cutting edges (see FIG. 3 interior surface of shield 45 and burr 65).

Regarding claim 6, Banko discloses a handle (see FIG. 1 housing 20).

Regarding claim 7, Banko discloses a surgical device comprising a shaft (see Fig. 12A shaft 85), a blade having a first concave surface and first cutting edge and a second concave surface and a second cutting edge (see FIG. 12B fluke 101 and edges 100), the blade edge at each end of the height dimension, and a diagonal dimension greater than the height dimension (see FIG. 12B).

Regarding claim 8, Banko discloses a collecting element at said leading end of said blade, the collecting element overlies a portion of the first concave surface (see FIG. 5A shield 45 and hood 76).

Regarding claim 9, Banko discloses the structure that allows the cutting edges to have two different orientations, a cutting and a non-cutting orientation (see FIG. 12B and Column 3 lines 7-21).

Regarding claim 10, Banko discloses a tapered surface of the collecting element and a collecting surface facing away from the blade (see FIG. 5A hood 76 and column 3 lines 7-21).

Regarding claim 11, Banko discloses the first cutting edge is facing in a direction opposite the second cutting edge (see FIG 12B edges 100).

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Regarding claim 12, Banko discloses a portion of the collecting element does not extend axially beyond the first and second cutting edges (see FIG. 5A shield 45).

Regarding claim 13, Banko discloses a handle (see FIG. 1 housing 20).

Regarding claim 14, Banko discloses a curette comprising a shaft (see FIG. 12A shaft 84), a blade with an undulating configuration and first and second cutting edges (see FIG. 12B edges 100 flute 101), and a collecting element (see FIG. 5A hood 76 and shield 45).

Regarding claim 15, Banko further discloses that the blade has a first concave region facing the opposite direction of the second concave region (see FIG. 12B edges 100).

Regarding claim 16, Banko discloses that the first concave region is adjacent a second convex region and the second concave region is adjacent a first convex region (see FIG. 12B compare fluke edges 101 and blade edges 100).

Regarding claim 17, Banko discloses the structure that allows the cutting edges to have two different orientations, a cutting and a non-cutting orientation (see FIG. 12B and Column 3 lines 7-21).

Regarding claim 18, Banko discloses that the first cutting edge is diametrically opposed to second cutting edge (see FIG. 12B edges flute 101).

Regarding claim 19, Banko discloses a tapered surface of the collecting element and a collecting surface facing away from the shaft (see FIG. 5A hood 76 and column 3 lines 7-21).

Regarding claim 20, Banko discloses a portion of a peripheral surface of the collecting element does not extend beyond the first and second cutting edges (see FIG. 5A shield 45).

Regarding claim 21, Banko discloses a handle (see FIG. 1 housing 20).

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Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are further cited to show the state of the art with respect to similar surgical cutting instruments:

U.S. Patent No. 4,867,157 to McGurk-Burleson et al.

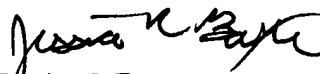
U.S. Patent No. 5,122,134 to Borzone et al.

U.S. Patent No. 6,245,084 to Mark et al.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica R Baxter whose telephone number is 703-305-4069. The examiner can normally be reached on M-F 8:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Milano can be reached on 703-308-2496. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.


Jessica R Baxter
Examiner
Art Unit 3731

jrb
July 2, 2002


MICHAEL J. MILANO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700